

***** PUBLIC NOTICE *****
OF GRANT OF REVIEW OF A PERMIT WHICH REGULATES THE
EMISSIONS OF AIR POLLUTANTS

Permit No. AZP 04-01

The Region 9 office of the United States Environmental Protection Agency (EPA) hereby announces grant of review by the U.S. EPA's Environmental Appeals Board (EAB) of a Federal Clean Air Act permit for the Desert Rock Energy Facility. With one exception, any interested person may file an amicus brief in the pending permit challenge with regard to the issues raised in four petitions that were previously submitted to the EAB; the four petitions are available on EPA's website at the address provided at the end of this notice. The exception pertains to EPA's previous decision not to impose limitations on emissions of carbon dioxide in the permit. EPA is accepting public comments on that issue through February 23, 2009 (see EPA's website for more information) and the EAB has stayed further consideration of the issue pending a final determination from EPA. Interested parties who wish to submit briefs on the issues currently under consideration by the EAB should submit them to one of the following addresses, based on the method of delivery:

All documents that are sent through the U.S. Postal Service (except by Express Mail) should be sent to:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Documents that are hand-carried in person, delivered via courier, mailed by Express Mail, or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) should be sent to:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, DC 20005

Documents that are hand-carried may be delivered to the Clerk of the Board from 8:30 AM to 12:00 PM and 1:00 PM to 4:30 PM, Monday through Friday (excluding federal holidays). The Clerk can be reached by telephone at (202) 233-0122.

BACKGROUND: On July 31, 2008, the Region 9 office of the EPA issued a final Prevention of Significant Deterioration permit to the Desert Rock Energy Company (DREC) in accordance with 40 C.F.R. § 52.21. The PSD permit granted DREC conditional approval for the construction and operation of a mine-mouth coal-fired power plant on the Navajo Indian reservation approximately 25 miles southwest of Farmington, New Mexico. This project is known as the "Desert Rock Energy Facility." The power

plant will be a supercritical pressure pulverized coal facility and is designed for a total nominal generation capacity of 1500 MW (gross), consisting of two 750 MW units equipped with state-of-the-art emission controls. Following EPA Region 9's July 31 final permit decision, several parties appealed that decision to the EAB. On January 8, 2009, EPA Region 9 filed a response to the petitions for review. On January 16, 2009, several petitioners filed motions requesting authorization to file briefs in response to EPA Region 9's January 8, 2009 brief. On January 22, 2009, the EAB issued an Order granting review of the issues raised in the petitions (with the exception related to emissions of carbon dioxide noted above) and authorizing Dine Care, Environmental Defense Fund, Grand Canyon Trust, Natural Resources Defense Council, San Juan Citizens Alliance, Sierra Club, and WildEarth Guardians (collectively "NGO Petitioners"), and the State of New Mexico to file reply briefs. Further information about the permit, including the administrative record, is available on EPA's website at the address below. Additional information about the permit may also be obtained by contacting Joe Lapka of the EPA Region 9 office at: US EPA; 75 Hawthorne St (Air-3); San Francisco, CA 94105; Phone: (415) 947-4226.

BRIEFING SCHEDULE: The EAB's January 22, 2009 order establishes the following Briefing Schedule: Reply briefs from the NGO Petitioners and the State of New Mexico are due on or before Friday, February 13, 2009. EPA Region 9, the Desert Rock Energy Company, and Dine Power Authority may file surreply briefs no later than Friday, March 6, 2009. Amicus briefs from any interested person are due no later than twenty-one days from the date of this notice.

No further briefing will be permitted except by order of the EAB. All briefs submitted pursuant to the EAB's January 22, 2009 Order shall not exceed 50 pages in length. Briefs or notices filed pursuant to the Order shall be served on all other persons who have filed motions, briefs, and/or memoranda in this matter as a party or amicus.

Copies of filings with the EAB, including those for the Desert Rock permit appeals (Appeal Nos. 08-03, 08-04, 08-05, & 08-06) are generally available for viewing and printing from the EAB's website at <http://www.epa.gov/eab>.

For more information about the Desert Rock PSD permit, including the administrative record for the permit, copies of the petitions submitted to the EAB, and the public comment period that is open through February 23, 2009, please visit <http://www.epa.gov/region09/air/permit/desert-rock/index.html>.

Please bring this notice to the attention of all persons who you know would be interested in this matter.

***** END OF NOTICE *****